

101-474

PUBLIC LAW 101-474—OCT. 30, 1990

104 STAT. 1097

Public Law 101-474
101st Congress

An Act

To establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes.

Oct. 30, 1990

[H.R. 4174]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Office of the United States Courts Personnel Act of 1990".

SEC. 2. GENERAL PERSONNEL AUTHORITY.

The Director of the Administrative Office of the United States Courts (hereinafter in this Act referred to as the "Director") may appoint, fix the compensation of, assign, and direct such personnel as the Director determines necessary to discharge the duties and functions of the Administrative Office.

Administrative
Office of the
United States
Courts
Personnel Act of
1990.
28 USC 602 note.
28 USC 602 note.

SEC. 3. ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM.

(a) The Director shall, by regulation, establish a personnel management system for the Administrative Office which provides for the appointment, pay, promotion, and assignment of all employees on the basis of merit, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The system shall apply to all Administrative Office employees except those referred to in section 603 of title 28, United States Code, and shall, at a minimum—

28 USC 602 note.

Regulations.
Wages.

(1) provide for a schedule of pay rates applicable to all employees; except as provided in paragraph (10), the basic pay of any person appointed under this section shall not exceed the rate of basic pay for level V of the Executive Schedule;

(2) incorporate pay comparability principles as set forth in section 5301(a) of title 5, United States Code;

(3) provide for the adjustment of the pay of employees at the same time and in the same percentage amount as rates of basic pay are adjusted for General Schedule and prevailing rate employees, as appropriate;

(4) establish procedures for employee evaluations, the granting of periodic pay adjustments, incentive awards, and resolution of employee grievances;

(5) establish procedures for disciplinary actions, including reduction in grade or pay, suspension, and removal, based on unacceptable performance or misconduct, except that—

(A) such procedures shall be consistent with—

(i) section 4303 of title 5, United States Code, to the extent that they relate to adverse actions based on unacceptable performance; and



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Civil rights.

Regulations.
Employment.

(ii) chapter 75 of title 5, United States Code, to the extent that they relate to adverse actions covered by such chapter; and

(B) the Director may exempt from these procedures positions of a confidential or policy-determining character, not to exceed 4 percent of the authorized positions of the Administrative Office;

(6) establish procedures for premium pay (including overtime), except that the Director may at his discretion implement flexible and compressed work schedules and may exempt the hours constituting such schedules from premium pay to the extent he deems necessary to implement such schedules;

(7) include the principles set forth in section 2301(b) of title 5, United States Code;

(8) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code;

(9) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; the Director must promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment;

(10) provide for the basic pay of not more than 5 percent of the authorized positions of the Administrative Office (excluding the positions referred to in section 603 of title 28, United States Code) to be set at rates not to exceed the rate of basic pay for positions at level IV of the Executive Schedule; the aggregate pay (including basic pay and incentive awards) of any individual whose basic pay is set under this subsection may not exceed the salary of the Director; and

(11) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

(b) The Director may apply the provisions of sections 5723 and 5304(f) of title 5, United States Code, to the positions referred to in subsection (a)(10) and in section 603 of title 28, United States Code, including the Deputy Director.

(c) The Director may provide for incentive awards for the positions referred to in section 603 of title 28, United States Code, including the Deputy Director, subject to the aggregate pay limitation in subsection (a)(10).

(d) The Chief Justice of the United States or the Judicial Conference of the United States may grant incentive awards to the Director, except that the Director's aggregate pay for any fiscal year, including salary and incentive awards, may not exceed the salary of a United States circuit judge. The Chief Justice or the Judicial Conference may authorize application of section 5723 of title 5, United States Code, to the Director.

(e) The Director may develop and conduct programs to meet the short- and long-range training needs of the agency.

(f) Notwithstanding any other provision of law, an individual who is an employee of the Administrative Office on the day before the effective date of this section and who, as of that day, was entitled to—

(1) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

(2) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code, or

(3) file an appeal with the Equal Employment Opportunity Commission under part 1613 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal so long as the individual remains an employee of the Administrative Office, except that this provision shall not apply to employees in positions referred to in section 603 of title 28, United States Code, or in positions of a confidential or policy-determining character referred to in subsection (a)(10).

(g) Nothing in this Act shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in the Administrative Office by any law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition, except that, with respect to any such employees and applicants for employment, any authority granted under any such law to the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, or any other agency in the executive branch, shall be exercised by the Administrative Office.

SEC. 4. NONCOMPETITIVE APPOINTMENTS.

28 USC 602 note.

(a) Notwithstanding any other provision of law, any employee of the Administrative Office who has completed at least 1 year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(b) A period of continuous service performed as a nontemporary employee of the Administrative Office immediately before the personnel system under section 3 takes effect shall, for purposes of subsection (a), be treated as if it had been performed under such system.

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 602(a) of title 28, United States Code, is amended to read as follows:

“(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the Administrative Office of the United States Courts Personnel Act of 1990.”

Wages.

(b) Section 603 of title 28, United States Code, is amended by striking “of the Deputy Director and” and by inserting after the first sentence the following: “Notwithstanding any other provision of law, the Director shall not be deemed to be an ‘employee’ for the purpose of subchapter I of chapter 63 of title 5. The salary of the Deputy Director shall be 92 percent of the salary of the Director.”

Wages.

(c) Section 2301(a) of title 5, United States Code, is amended—

(1) by inserting “and” at the end of paragraph (1);

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(d) Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking “, the Administrative Office of the United States Courts,”

- (e) Section 4301(1) of title 5, United States Code, is amended—
 (1) by inserting “and” at the end of subparagraph (A);
 (2) by striking subparagraph (B); and
 (3) by redesignating subparagraph (C) as subparagraph (B).
- (f) Section 4501(1) of title 5, United States Code, is amended by striking subparagraph (B) and redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively.
- (g) Section 4701(a)(1) of title 5, United States Code, is amended by striking “, the Administrative Office of the United States Courts,”.
- (h) Section 5102(a)(1) of title 5, United States Code, is amended by striking subparagraph (B) and redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively.
- (i) Section 5108(c) of title 5, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.
- (j) Section 5349(a) of title 5, United States Code, is amended by striking “the Administrative Office of the United States Courts,”.
- (k)(1) Section 5595(a)(1) of title 5, United States Code, is amended—
 (A) by striking “and” at the end of subparagraph (C); and
 (B) by adding after subparagraph (D) the following:
 “(E) the Administrative Office of the United States Courts, the Federal Judicial Center, and the courts named by section 610 of title 28; and”.
- (2) Section 5595(b) of title 5, United States Code, is amended by adding at the end the following: “However, the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section.”.
- (1)(1) Section 5596(a)(2) of title 5, United States Code, is amended by striking “Courts;” and inserting “Courts, the Federal Judicial Center, and the courts named by section 610 of title 28;”.
- (2) Section 5596(c) of title 5, United States Code, is amended by striking “employees.” and inserting “employees, or to the agencies specified in subsection (a)(2) of this section.”.
- (m) Clause (v) of section 8331(1) of title 5, United States Code, is amended to read as follows:
 “(v) an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, excluded by the Director of the Administrative Office under section 8347(o) of this title;”.
- (n) Section 8347 of title 5, United States Code, is amended by adding at the end the following:
 “(p) The Director of the Administrative Office of the United States Courts may exclude from the operation of this subchapter an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.”.
- (o) Section 8401(11)(i)(I) of title 5, United States Code, is amended by striking “(v).”.
- (p) Section 8402(c) of title 5, United States Code, is amended by adding at the end the following:
 “(7) The Director of the Administrative Office of the United States Courts may exclude from the operation of this chapter an employee of the Administrative Office of the United States Courts, the Federal

Judicial Center, or a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.”.

(q) Section 602(b) of title 28, United States Code, is amended by striking “604(a)(15)(B)” and inserting “604(a)(16)(B)”.

(r) Section 402(a)(1) of the Judicial Improvements and Access to Justice Act (102 Stat. 4650) is amended by striking “redesignating paragraph (18)” and inserting “redesignating paragraph (19)”. 28 USC 604.

SEC. 6. AUTHORIZATION.

28 USC 602 note.

There are authorized to be appropriated for fiscal year 1990 and for each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.

Approved October 30, 1990.

LEGISLATIVE HISTORY—H.R. 4174:

HOUSE REPORTS: No. 101-770, Pt. 1 (Comm. on Post Office and Civil Service).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 1, considered and passed House.

Oct. 11, considered and passed Senate.